

## UNITED STATES BANKRUPTCY COURT

District of  
South CarolinaIn re **Cynthia Carssow Franklin**  
DebtorSUBPOENA IN A CASE UNDER  
THE BANKRUPTCY CODECase No. \* 10-20010 (rdd)  
Southern District of New YorkTo: **Herman John Kennerty**  
**York, SC 29745**Chapter 13☐ YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

**McGowan, Hood & Felder**  
**1539 Health Care Drive**  
**Rock Hill, SC 29732**

DATE AND TIME

**July 18, 2011 at 10:00 AM**☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this proceeding that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Rule 30(b)(6), Federal Rules of Civil Procedure, made applicable in bankruptcy cases and proceedings by Rules 1018, 7030, and 9014, Federal Rules of Bankruptcy Procedure.

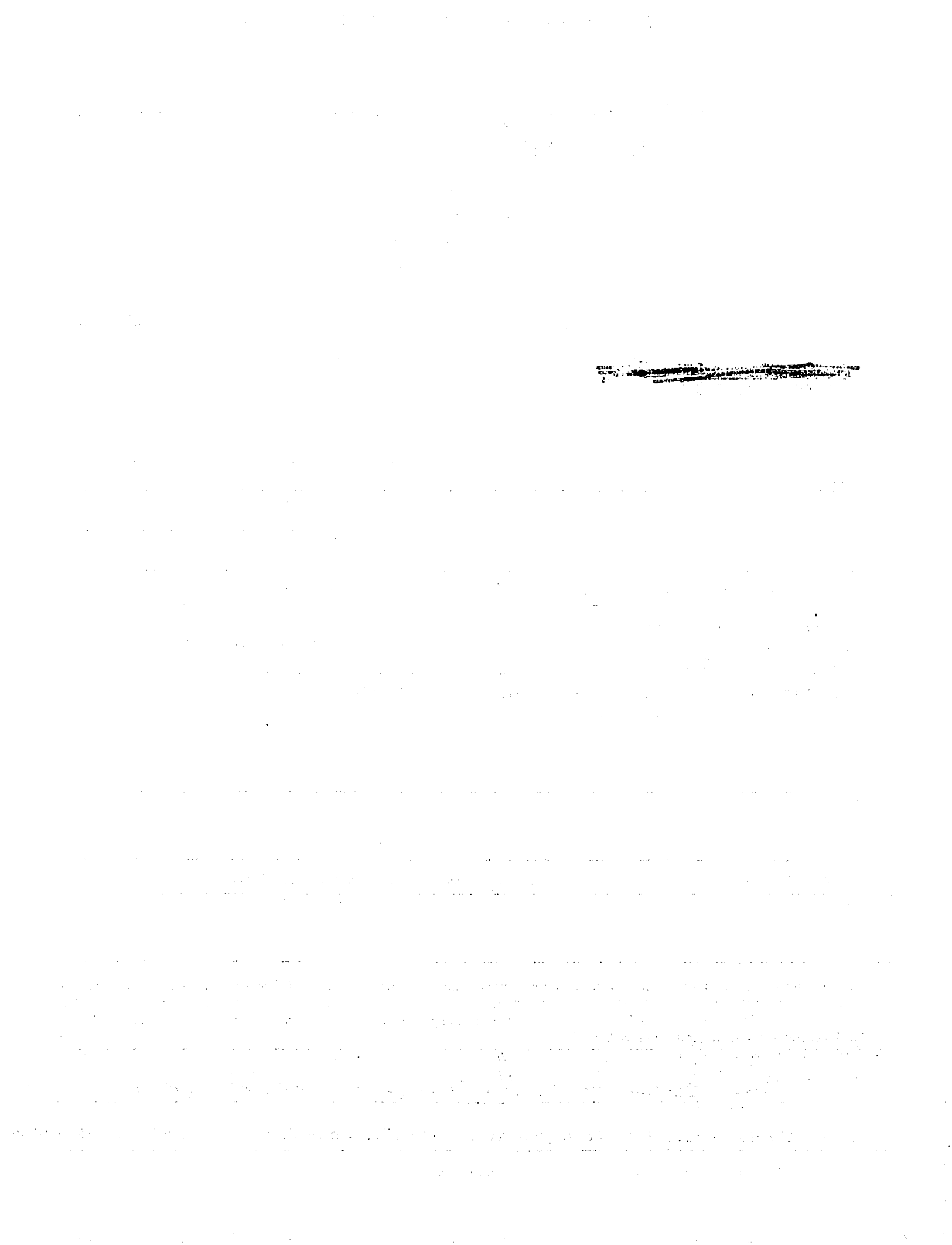
ISSUING OFFICER SIGNATURE AND TITLE

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

**Linda M. Tirelli, Esq., 1 N. Lexington Ave., 11th Fl., White Plains, NY 10601 (914) 946-0860**

DATE

**6-21-2011**



## PROOF OF SERVICE

SERVED	DATE	PLACE
	6-22-2011 @ 5:00pm	York, SC
SERVED ON (PRINT NAME)		MANNER OF SERVICE
Herman John Kennedy		Individually
SERVED BY (PRINT NAME)		TITLE
Andrew Stefano		Process Server/Private Investigator

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 6-22-2011  
DATE

Al Joffe  
SIGNATURE OF SERVER

Po Box 37382 Rock Hill SC  
ADDRESS OF SERVER  
29732

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure.

## (c) Protecting a Person Subject to a Subpoena

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees -- on a party or attorney who fails to comply.

## (2) Command to Produce Materials or Permit Inspection

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises -- or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

## (3) Quashing or Modifying a Subpoena

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person -- except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

## (d) Duties in Responding to a Subpoena

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information.

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

## (2) Claiming Privilege or Protection

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has, must not use or disclose the information until the claim is resolved, must take reasonable steps to retrieve the information if the party disclosed it before being notified, and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## (e) Contempt

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

[REDACTED]

**AFFIDAVIT OF SERVICE**

**UNITED STATES BANKRUPTCY COURT  
District of South Carolina**

Case Number: 10-20010

Plaintiff:

vs.

Debtor:

**Cynthia Carssow-Franklin**

For:

Linda Tirelli

The Law Offices of Linda M. Tirelli, PC

100 Summer Street


3rd Floor

Stamford, CT 06905

Received by AJS Investigations, LLC to be served on Herman John Kennerty,  
29745.

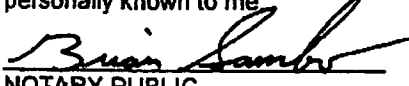
 York, SC

I, Andrew Staffileno, being duly sworn, depose and say that on the 22nd day of June, 2011 at 5:05 pm, I:


INDIVIDUALLY/PERSONALLY served by delivering a true copy of the Subpoena and \$55.00 Witness Fee to:  
Herman John Kennerty at the address of  York, SC 29745.

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 22nd day  
of JUNE, 2011 by the affiant who is  
personally known to me

  
NOTARY PUBLIC

My Commission Expires: 11/22/2014

  
Andrew Staffileno  
Process Server

AJS Investigations, LLC  
PO Box 37382  
Rock Hill, SC 29732  
(803) 980-5005

Our Job Serial Number: AJI-2011000285

~~REDACTED~~

~~REDACTED~~

**AJS Investigations, LLC**

**Priority: STANDARD**

**Field Sheet #2011000285**

Received: 6/22/2011 at 3:36 pm

Court Date: Filed:

**SERVE:**

**Herman John Kennerty,**

**York, SC 29745**

**SPECIAL INSTRUCTIONS:**

**Attempts**

**Server: Andrew Staffileno**

Date	Time	Comments
1. 6/22	4:03pm	Attempted Service at Wells Fargo 3476
2. /		Stateview Blvd Fort Mill SC. Advised
3. /		he was not available.
4. /		
5. /		
6. /		
7. /		
8. /		

**Actual Service Info**

6/22 5:05pm	Type: Individual	Military?	Miles
Served on: Herman John Kennerty	As:		Hours
Address: York, SC			Additional Addr. 1 2 3
Comments:			Courier
			Out of Pocket Costs

Age 45.50 Sex (M) F Race White Height 62 Weight 222 Hair BRN Glasses Y (N)

Case Number: 10-20010

Plaintiff

Debtor

Cynthia Carsow-Franklin

Type of Writ: Subpoena and \$55.00 Witness Fee

Military Status And Description Required By Law

Client: Linda Tirelli

Firm: The Law Offices of Linda M. Tirelli, PC

Phone: (203) 653-2203 Fax: (914) 946-0870

Client Reference Number:

AJS Investigations, LLC

PO Box 37382 Rock Hill, SC

803-980-5005

Server Name:

Andrew Staffileno







Trip to:

York, SC 29745-6437

11.81 miles

18 minutes













Notes

## To investors who want to retire comfortably.

If you have a \$500,000 portfolio, download the guide written by *Forbes* columnist and money manager Ken Fisher's firm. It's called "The 15-Minute Retirement Plan." Even if you have something else in place right now, it *still* makes sense to request your guide!

[Click Here to Download Your Guide!](#)

Source: Investment

		Miles Per Section
	1539 Health Care Dr Rock Hill, SC 29732-3858	
	1. Start out going SOUTHEAST on HEALTH CARE DR toward CONSTITUTION BLVD.	Go 0.02 MI
	2. Turn LEFT onto CONSTITUTION BLVD.	Go 0.4 MI
	3. Turn LEFT onto HERLONG AVE S.	Go 0.8 MI
	4. Turn RIGHT onto HECKLE BLVD / SC-901 N. <i>HECKLE BLVD is just past HERLONG VILLAGE DR</i>	Go 2.4 MI
	5. Stay STRAIGHT to go onto OLD YORK RD / SC-161 N / SC-274 N. Continue to follow OLD YORK RD / SC-161 N.	Go 7.4 MI
	6. Turn LEFT onto SC-5 / E ALEXANDER LOVE HWY. <i>If you are on SC-161-BR and reach SC-5-BR you've gone about 0.1 miles too far</i>	Go 0.2 MI
	7. Turn SLIGHT LEFT onto SC-5 / YORK HWY.	Go 0.5 MI
	8. Take the 1st LEFT onto BROOKHOLLOW DR. <i>If you reach COLONIAL ACRES CIR you've gone a little too far</i>	Go 0.2 MI
	9. Take the 2nd RIGHT onto <i>If you reach the end of BROOKHOLLOW DR you've gone a little too far</i>	Go 0.01 MI
	10. 1 <i>If you reach CHIRMEADOW LN you've gone a little too far</i>	
	York, SC 29745-6437	11.8 mi

Total Travel Estimate: 11.81 miles - about 18 minutes

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FOLLOW OUR TRIP >

LINDA TIRELLI, ESQ  
LAW OFFICES OF LINDA M. TIRELLI, PC  
COUNSEL FOR DEBTOR  
ONE NORTH LEXINGTON AVENUE, 11<sup>th</sup> FLOOR  
WHITE PLAINS, NEW YORK 10601  
PH(914) 946-0860 /FAX(914)946-0870

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION**

-----X  
**IN THE MATTER OF**

**CYNTHIA CARSSOW FRANKLIN  
DEBTOR**

**CHAPTER 13  
CASE NO: 10-20010(RDD)**

-----X  
**NOTICE OF DEPOSITION OF HERMAN JOHN KENNERTY, FORMER VICE  
PRESIDENT OF LOAN DOCUMENTATION OF WELLS FARGO BANK, NA**

**TO: HERMAN JOHN KENNERTY**

**PLEASE TAKE NOTICE** that MS. CYNTHIA FRANKLIN (the "Debtor") will take the depositions upon oral examination of **HERMAN JOHN KENNERTY, former Vice President Of Loan Documentation Of Wells Fargo Bank, NA** ("WFBNA" or "Claimant") with respect to matters pertaining to the Objection to Proof of Claim filed by the Debtor seeking to disallow the claimant's claim against for the premises identified as 2523 Crenshaw Drive, Round Rock, TX 78664, before a notary public of the State of New York, or other officer authorized by law to administer oaths, pursuant to Fed. R. Civ. P. 30(b)(1), made applicable herein by Bankruptcy Rules 9014 and 7030. The depositions will commence at **10:00 a.m. on Monday, July 18, 2011** at the The Law Offices of McGowan, Hood & Felder, 139 Health Care Drive, Rock Hill, SC 29732 or such place as agreed to by all parties and will continue from day to day until completed.

All parties are invited to attend and cross-examine.

This the 21<sup>st</sup> day of June , 2011.

/S/ Linda M. Tirelli  
Linda M. Tirelli, Esq.  
Law Offices of Linda M. Tirelli  
Counsel for Debtor  
One North Lexington Avenue, 11<sup>th</sup> Floor  
White Plains, NY 10601  
Phone (914)946-0860 / Fax (914)946-0870

LAW OFFICES OF LINDA M TIRELLI PC

1100 SUMMER ST 3RD FL  
STAMFORD, CT 06905

1282

June 21, 2011

Date

51-309/111  
577

Pay to the  
Order of

Marina Tetre Kennedy \$ 55.00

Dollars

Signature  
Required  
for  
Cash



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For 10-20010 (RDD) Transfer

1282

Internet Copy

FD-100, 10/1

1. The first part of the document is a list of names and addresses of the members of the committee.